

**CITY OF HOMER
HOMER, ALASKA**

City Clerk

ORDINANCE 21-51

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA
AMENDING HOMER CITY CODE CHAPTERS 6.16 FEE FOR POLICE
PROTECTION SERVICES, 8.08 ITINERANT MERCHANT, 8.11
MOBILE FOOD VENDORS, 11.20 STREETS, SIDEWALKS, DRIVEWAY
CONSTRUCTION, 13.12 EARTHWORK, 18.28 TIDELANDS, 19.08
CAMPGROUNDS, AND 19.12 EXCAVATION OF HOMER SPIT BEACH
TO REMOVE FEES AND REPLACE WITH REFERENCE TO THE CITY
OF HOMER FEE SCHEDULE AND STRIKE OUTDATED LANGUAGE.

WHEREAS, City fees are established by Resolution and included in the City of Homer
Fee Schedule; and

WHEREAS, It is appropriate to remove fees from Homer City Code and replace with
reference to the City of Homer Fee Schedule regarding fees for city services; and

WHEREAS, The reference to paying royalties to Dow Chemical Company in section
13.12.040 is obsolete and should be removed from City Code.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. Homer City Code Chapter 6.16 Fee for police protection services, Section
6.16.020 Fee for police protection services is hereby amended as follows:

6.16.020 Fee for police protection services.

a. Subject to subsection (b) of this section, the owner of a residential property shall pay the
City a fee of ~~\$250.00~~ **as set forth in the most current City of Homer Fee Schedule** per
excessive police response to the residential property during a calendar year.

b. The owner of a residential property shall be liable for the fee established by subsection (a)
of this section only if:

1. The City has notified the owner in writing as provided in HCC 6.16.030 that the fee will
apply to any excessive police responses to the residential property during the calendar
year;
2. The time allowed for appropriate corrective action under HCC 6.16.040 has expired;
and
3. The owner has not taken appropriate corrective action as required by HCC 6.16.040.

c. If a residential property has more than one owner, all owners shall be jointly and severally liable for any fee imposed under this section.

d. For residential property owned as a condominium, a fee based on excessive police responses to a single dwelling unit shall be assessed against the owner of the dwelling unit. [Ord. 09-33(A), 2009].

Section 2. Homer City Code Chapter 8.08 Itinerant Merchant, Sections 8.08.030 Itinerant or transient merchant license – Application, 8.08.040 Referral – Fees, and 8.11.050 License – Application – Referral – Fees are hereby amended as follows:

8.08.030 Itinerant or transient merchant license – Application.

Applicants for an itinerant or transient merchant license, whether a person, firm, or corporation, shall file a written, sworn application signed by the applicant, if an individual, by all partners, if a partnership, and by the president, if a corporation, with the Homer Police Department, on a form to be furnished by the Homer Police Department, which shall give the following information:

a. Name and description of the applicant (applicant must produce valid identification with photo affixed thereon);

b. Address, both legal and local;

c. A brief description of the nature of the business and the goods to be sold and, in the case of products of farm or orchard, whether produced or grown by the applicant;

d. If employed, the name and address of the employer, together with credentials establishing the exact relationship;

e. The length of time for which the right to do business is desired;

f. If a vehicle is to be used, a description of the same, together with the license number or other means of identification;

g. A photograph of the applicant, taken within 60 days immediately prior to the date of the filing of the application, showing the head and shoulders of the applicant in a clear and distinguishing manner;

h. The names of at least two reliable property owners of the City, who will certify as to the applicant's good character and business responsibility, or, in lieu of the names and references, any other available evidence as to the good character and business responsibility of the

applicant as will enable an investigator to properly evaluate such character and business responsibility;

i. A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor and a criminal history background check supplied by the State of Alaska within the preceding 30 days;

j. A copy of the applicant's business license and his certificate of registration for collection of Kenai Peninsula Borough sales tax, and when applicable a health certificate, letter of approval or other appropriate notification from State authorities for a food vending business;

k. At the time of filing the application, a fee of ~~\$10.00~~ **as set forth in the most current City of Homer Fee Schedule** shall be paid to cover the cost of processing the application;

l. Waiver of objection to criminal history check. By the act of filing, applicant waives all claims he may have arising under any act or principle of common law protecting individual privacy, and consents to an investigation from any source or sources as to criminal history. [Ord. 01-20 § 1, 2001; Ord. 92-21, 1992; Ord. 89-9(A) § 1, 1989; Ord. 86-21 § 2, 1986; Ord. 83-2 § 1, 1983].

8.08.040 Referral – Fees.

a. Upon receipt of the application described in HCC 8.08.030, the original shall be referred to the Chief of Police or designee who shall cause an investigation of the applicant's business responsibility and moral character to be made. The application shall be approved or denied by the Chief of Police or his designee within 48 hours of its receipt.

b. The Chief of Police shall find that an application's background is unsatisfactory if:

1. The applicant has been convicted of a felony within the three-year period immediately preceding the date of his application;
2. The applicant has been convicted of a misdemeanor or violation of a municipal ordinance involving a monetary consideration within the same three-year period;
3. The applicant does not have proper business license, certificate of registration for collection of sales tax or health certificate when applicable.

c. If, as a result of such investigation, the applicant's character or business responsibility is found to be unsatisfactory, the Chief of Police shall endorse on such application his disapproval and his reasons for the same and shall notify the applicant that his application is disapproved and that no permit and license will be issued.

d. If, as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the Chief of Police or designee shall endorse on the application his approval. The Homer Police Department shall, upon payment of the prescribed fee, deliver

to the applicant his license. Such license shall contain the signature and seal of the Chief of Police or designee and shall show the name and photograph of the licensee, the class of license issued and the kinds of goods to be sold thereunder, the amount of fee paid, the operative, as well as the license number and other identifying description of any vehicle used in the business. The Homer Police Department shall keep a permanent record of all licenses issued.

e. For each license issued hereunder, the fee shall be ~~\$330.00~~ **the amount as set forth in the most current City of Homer Fee Schedule** for a 60-day license. For each assistant or sublicense associated with the principal license the fee shall be \$10.00 each. [Ord. 10-51(A), 2011; Ord. 01-20 § 1, 2001; Ord. 92-21, 1992; Ord. 89-9(A) § 1, 1989; Ord. 86-21 § 3, 1986; Ord. 83-2 § 1, 1983].

Section 3. Homer City Code Chapter 8.11 Mobile Food Service, Section 8.11.050 License – Application – Referral – Fees is hereby amended as follows:

8.11.050 License – Application – Referral – Fees.

a. Upon receipt of the application described in HCC 8.11.040, the original shall be referred to the Chief of Police or designee who shall carry out an investigation, and approve or disapprove such application under the procedures set forth in HCC 8.08.040.

b. For each license issued under this chapter, the fee shall be ~~\$390.00~~ **the amount as set forth in the most current City of Homer Fee Schedule** annually. ~~A \$12.00 per month discount for the unused portion (counting from the beginning of the year) shall be granted.~~ All licenses expire on December 31st of the year issued. [Ord. 10-51(A), 2011; Ord. 01-20 § 2, 2001; Ord. 83-10(S) § 1, 1983].

Section 4. Homer City Code Chapter 11.20 Streets, Sidewalks, Driveway Construction, Section 11.20.070 Preconstruction requirements is hereby amended as follows:

11.20.070 Preconstruction requirements.

Following receipt of the notice of design approval, the developer shall submit the following to the City:

a. A construction schedule;

b. Erosion control plan and traffic control plan for the area of the development project, if determined necessary by the Public Works Engineer;

c. Identification of the following personnel, who shall be required to perform their respective duties during the construction of the project:

1. Contractor;

2. Project engineer;

3. Inspector;

4. Surveyor;

5. Testing firm (a firm employed by the developer to perform soils, compaction, and other tests deemed necessary by the project engineer to ensure conformance of work to plans and specifications);

d. A development fee is required for private projects to cover costs of inspection and administration of the project. The fee shall be generally in relation to the design engineer's construction cost estimate, according to the following schedule below: **amount set forth in the most current City of Homer Fee Schedule**

Cost Estimate	Development Fee
Less than \$100,000	1.0% of cost estimate, but not less than \$250.00
\$100,000 to \$500,000	0.75% of cost estimate, but not less than \$1,000
Above \$500,000	0.50% of cost estimate, but not less than \$3,750

Municipal projects shall include an appropriate project overhead for project administration and inspection.

e. Design Engineer's Construction Cost Estimate. This cost estimate shall be accompanied by the calculations upon which the cost estimate is based. The estimate and calculations are subject to verification and concurrence by the City Public Works Engineer;

f. A performance bond or other acceptable guarantee in the amount of 100 percent of the project cost, which bond shall be waived in the case of new subdivisions, in which right-of-way dedication, via plat filing or recordation, cannot occur until improvements are installed and accepted;

g. Proof of liability insurance listing the City as additional insured in accordance with the requirements of HCC 11.20.075. The insurance may be purchased and maintained either by the developer or the contractor;

h. A notarized statement that the developer shall hold the City harmless from any claims arising from construction including, but not necessarily limited to, liability or nonpayment of subcontractors or suppliers;

i. The developer shall submit to the City, in accordance with the form specified by the City, a quality control program for the construction of the improvements. The quality control program shall provide sufficient inspection and test procedures to determine compliance with all applicable plans, specifications, and safety requirements. The program shall include at least the following:

1. The frequency and type of all tests to be performed;
2. A list of all firms or persons who will perform tests and inspections;
3. Procedures for coordinating testing and inspections with the City, and for providing advance notice to the City of all inspections and tests which the City may opt to witness;
4. Procedures for reporting quality control activities, including discoveries of deficiencies in the work.

In addition, the developer must sign a performance agreement with the City that work shall be completed according to the plans and specifications, and allowing the City the right to enter upon and inspect the project, and to order work stoppage, tests, and field changes in accordance with HCC 11.20.080.

Upon completion of the requirements set out in this section to the satisfaction of the City, the City shall issue a notice to proceed with construction. [Ord. 87-6(S) § 1, 1987].

Section 5. Homer City Code Chapter 13.12 Earthwork, Section 13.12.040 Frost protection insulation is hereby amended as follows:

13.12.040 Frost-protection insulation.

For frost-protection insulation, use only rigid board Styrofoam insulation material, Dow H.I. 40 or equal.

a. Generally, one inch insulation thickness equals one foot earth cover.

b. Styrofoam physical properties:

Density	2 pcf. minimum
Compressive strength (ASTM D1621-59T)	35 psi. minimum at 5% deflection or yield
Water absorption (ASTM C177-53)	0.125% by vol. max.
Thermal conductivity (ASTM C177-63)	Max. 0.23 BTU/hr.ft. 2° F./in. thickness

~~c. Patent royalties of \$0.005 per board foot must be paid to Dow Chemical Company for any insulation used for this purpose if not manufactured by Dow. "Royalties" are required because of a Dow Chemical Company patent on the specific product "Styrofoam" physical properties~~

~~as originated and marketed for use specifically as a frost protection barrier. The burden of proof and payment rest with the contractor or supplier that chooses to do otherwise. The City is concerned only that proper insulation materials are used, “Dow Styrofoam” specifically or an “equal” in performance. In some cases “Dow Styrofoam” may be specifically called out in the project specifications. If so, the City would not allow an equal. [Ord. 85-25(A) Art. 20.1.2(c), 1985].~~

Section 6. Homer City Code Chapter 18.28 Tidelands, Section 18.28.310 Appraisal deposit is hereby amended as follows:

18.28.310 Appraisal deposit.

Each Class III preference right claimant shall deposit with the City Clerk the sum ~~of \$50.00~~ **in the amount as set forth in the most current City of Homer Fee Schedule** to cover the cost of appraisal. Any amount exceeding this shall be charged to the applicant and any surplus shall be returned to him. [Code 1967 § 21-100.30].

Section 7. Homer City Code Chapter 19.08 Campgrounds, Section 19.08.070 Certain acts prohibited, 19.08.090 Unattended camps, and 19.08.090 Unattended camps is hereby amended as follows:

19.08.070 Certain acts prohibited.

It shall be unlawful for any person to:

a. Dispose of or deposit human body wastes or any other waste on City-owned or City-controlled land other than in authorized or designated receptacles;

b. Make or cause to be made any unnecessary or unusual noise which annoys, injures or endangers the comfort, repose, health or safety of the public, or any individual member of the public on City-owned or City-controlled land;

c. Erect, occupy, or otherwise utilize any temporary or permanent structure or shelter on City-owned or City-controlled lands.

1. Exception. Unless otherwise prohibited, tents of standard commercial manufacture or constructed in whole or in part from canvas, nylon or other tenting material may be erected and occupied in designated camping areas. Structures so exempted may not be modified, extended, or sheltered by the addition of any material not a commercially manufactured component of said tent or other than a recognized tenting material.

2. Exception. Unless otherwise prohibited, self-contained camper units may be parked and occupied in designated camping areas so long as they remain immediately mobile;

d. Park, leave, maintain, or utilize any vehicle, camper unit, or camp in violation of any provision of any section of this chapter. All vehicles, camper units, or other camps in violation

shall be subject to impoundment by any peace officer. All costs of impoundment and storage of any property so impounded shall be paid before said property shall be released. Property so impounded shall additionally be subject to an ~~\$20.00~~ impound fee **in the amount as set forth in the most current City of Homer Fee Schedule**, which shall be paid before said property is released. All permanent structures shall be impounded pursuant to HCC 19.08.100;

e. Deface, destroy, alter, remove, or otherwise disfigure any equipment, sign, utility services, or other facility owned or provided by the City at any City-owned campground or campsite, or parking area adjacent thereto;

f. Allow any dog owned, harbored, or controlled by himself to be at large in any City-owned or City-controlled campground. All fecal wastes of any dog discharged or deposited on any lands within a City-owned or City-controlled campground shall be immediately removed by the person owning, harboring, or controlling said animal and shall be deposited in trash receptacles or otherwise stored in containers pursuant to HCC 19.08.080;

g. Leave any campsite in a disorderly or unsightly condition upon termination of use. [Ord. 81-1(S), 1981. Code 1967 § 5-700.6].

19.08.090 Unattended camps.

A campsite shall be occupied on the first night after equipment, vehicles, or tents have been set up. Equipment left unattended for a period of 72 hours at any campsite on City-owned or City-controlled property may be impounded unless prior permission for a longer storage period has been obtained from an authorized City representative. An ~~\$20.00~~ impound fee **in the amount as set forth in the most current City of Homer Fee Schedule**, and all costs of impoundment and storage shall be paid before said property may be released. [Ord. 81-1(S), 1981. Code 1967 § 5-700.8].

19.08.100 Unauthorized structures.

Any structure erected, maintained, occupied, or utilized on City-owned or City-controlled land without written permission from the City Manager or otherwise permitted under this chapter shall be unlawful and shall be subject to impoundment or disposal by any peace officer. If said structure is impounded pursuant to this section, all costs of impoundment and storage shall be paid in addition to the impound fee of ~~\$20.00~~ **in the amount as set forth in the most current City of Homer Fee Schedule**, before said structure may be released. All costs of recovery shall be borne by the person claiming said structure. [Ord. 81-1(S), 1981. Code 1967 § 5-700.9].

Section 8. Homer City Code Chapter 19.12 Excavation of Homer Spit Beach, Section 19.12.040 Guidelines is hereby amended as follows:

19.12.040 Guidelines.

Any applicant for a permit shall comply with the following:

a. Permits shall be issued pursuant to guidelines formulated by the State Division of Lands and the U.S. Corps of Engineers, as referred to by the above-mentioned materials plat. Such guidelines may be altered from time to time by the Division of Lands and the Corps of Engineers as additional data is received by these agencies.

b. No permits shall be issued for excavation or removal of gravel or fill materials from area "A" as designated on the above-mentioned plat prior to review and approval of the permit application by the Corps of Engineers and the Division of Lands.

c. Permits may be issued by the City for such excavation or removal from areas "B" and "C" as designated on the plat, without review and approval of the permit application by the Corps of Engineers or the Division of Lands.

d. No permit will be issued by the City for such excavation or removal of gravel, gravel fill or other fill materials from any area other than areas "A," "B" and "C" as designated on the materials plat.

e. All permit applications required under this chapter shall be accompanied by a site plan showing the precise location and dimensions of the proposed excavation or removal in reasonably sufficient detail, including depth, and stating the amount of material to be excavated or removed.

f. All applications required under this chapter shall be submitted to the City Clerk, together with the request accompanying instruments, and a permit fee of ~~\$5.00~~ fee **in the amount as set forth in the most current City of Homer Fee Schedule.**

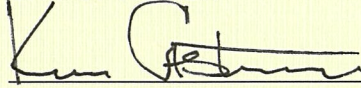
g. No permit shall be issued that will allow gravel, gravel fill, or other fill materials to be taken off the Homer Spit. Any such materials excavated or removed anywhere on the Homer Spit shall be used only at another location on the Homer Spit.

h. Gravel for Transshipment. Nonnative gravel or other earthen commodities may be shipped to the Homer Spit, stored on the Spit, and exported from the Spit. Gravel for transshipment must be permitted by the City of Homer. The permit shall describe the terms and timelines of the transshipment and the volumes of materials involved. [Ord. 98-2(A)(S)(A) § 2, 1998. Code 1967 § 1-100.3].

Section 9. This ordinance is of a permanent and general character and shall be included in Homer City Code.

ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this 12 day of Sept, 2021.

CITY OF HOMER



KEN CASTNER, MAYOR

ATTEST:



RENEE KRAUSE, MMC, ACTING CITY CLERK

YES: 5

NO: 0

ABSENT: 1

ABSTAIN: 0

First Reading: 8/23/21

Public Hearing: 9/13/21

Second Reading: 9/13/21

Effective Date: 9/14/21

